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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,857	08/21/2003	Toshiyuki Sashihara	071671-0168	7518
22428 7590 02/25/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER WU, JIANYE	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/644,857

Applicant(s)

SASHIHARA, TOSHIYUKI

Examiner

Jianye Wu

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1-2, 8-12 and 18** are rejected under 35 U.S.C. 102(e) as being anticipated by Barnes, JR (US 20030065805 A1, hereinafter **Barnes**).

For **claim 1**, Barnes discloses a system (101 of Fig. 1) for informing that the user is in or not in wireless LAN (WLAN, [0044], line 14) service area comprising at least:

a preset data storing means (memory 160 of Fig.1; or “stored in memory”, first line of [0110]) for storing identification data (authentic. module 125 of Fig. 1; or “the authentication data”, [0110], line 1) of a hot spot dealer (the service provider of a particular service area, such as 235 of Fig. 2);

a wireless communication means (Comm. Module 105 of Fig.1; or anyone of wireless LAN, WLAN, wireless MAN, and wireless PAN in [0044], line 12-15);

a display means (Display 175 of Fig. 1; or high resolution color display or dynamic touch screen, [0037], line 4-12) and

a means functioning (101 of Fig. 1):

when providing a display as to whether the user is in the service area of a hot spot service (the service area of a service provider, such as area 235 in FIG. 2), to obtain the electric field intensity (strength of the communication signal, [0032], line 17-19) of a channel as a subject of survey and identification data of a dealer and check (validation, [0110], line 8) whether the obtained identification data (receipt of the authentication data, [0110], line 8) is identical with identification data (the data stored in memory, [0110], line 4-5) of the user's own subscribed hot spot dealer (the authentication data of the user, [0110], line 5-7), which is stored in the preset data storing means (memory 160 or Authentic. Module 125 of Fig. 1);

when the obtained identification data is identical with the identification data of the user's own subscribed hot spot dealer (validation, [0110], line 8 or authentication process described [0110]-[0115]), to output data for display on the display means such that the user can decide that the obtained electric field intensity is that of the user's own subscribed hot spot dealer (strength of the communication signal, [0032], line 17-19); and

when the obtained identification data (receipt of the authentication data, [0110], line 8) is identical with the identification data of the roaming contract relation dealer (validation, [0110], line 8), to output data for display on the display means such that the user can decide that the obtained electric field intensity is that of the roaming contract relation dealer (the signal to the display for presentation to the user, [0045], line 10-11, which shows the signal strength of the service area)

As to **claim 2**, Barnes discloses the system according to claim 1, wherein the display means includes:

a light-emitting means (LED(s), or a high resolution color display, [0037], line 5-11; the color display may be LCD that is commonly used as laptop monitor or mobile devices such as cellular phones); and in the case when the user is in the service area of the user's own subscribed hot spot dealer and the case when the user is in the service area of the dealer in roaming contract relation to the own hot spot dealer.

a control means (circuit for controlling LEDs or the high resolution color display, [0037], line 5-11) for causing the light-emitting means to emit informing light in different colors (color display, line 9 of [0037] or using different colors of LEDs) in the case when the user is in the service area of the user's own subscribed hot spot dealer and the case when the user is in the service area of the dealer in roaming contract relation to the own hot spot dealer (in the service area of the service provider).

As to **claim 8**, Barnes discloses the system according to claim 1, which further comprises an agent authentication means (authentication module 125 of Fig. 1) set by the user's own subscribed hot spot dealer and a hot spot dealer in roaming contract relation to the own hot spot dealer (the roaming contract service area is considered as the extended service area, to which everything applies in the same way); and in which:

the obtained identification data (receipt of the authentication data, [0110], line 8) is identical with identification data (the data storied in memory, [0110], line 4-5) of the user's own subscribed hot spot dealer (the authentication data of the user, [0110], line

5-7), which is stored in the preset data storing means (memory 160 or Authentic.

Module 125 of Fig. 1);

at the user side terminal data concerning the authentication means of the user's own subscribed hot spot dealer and a hot spot dealer in roaming contract relation to the own hot spot dealer and data necessary for these authentications (receipt of the authentication data, [0110], line 8 or the authentication data of the user, [0110], line 5-7) are preliminarily stored in the memory means (stored in memory, [0110]);

the agent authentication means carries out authentication by using the data preset by the user (validation, [0110], line 8); and

when the agent authentication means has carried out authentication successfully, data indicative of that the pertinent service area is that of the successfully authenticated hot spot dealer (strength of the communication signal, [0032], line 17-19; seeing the signal indicates the successfully authentication) is outputted to the display means for display (displayed on the display device, [0112], line 1-2).

As to **claim 9**, Barnes discloses the system according to claim 1, which further comprises a means for deciding, when a check is made as to whether the obtained identification data is identical with the identification data of the user's own subscribed hot spot dealer as stored in the preset data storing means, that the obtained identification data and the identification data stored in the preset data storing means are identical when the two data are not perfectly identical but partly identical (sufficient to identify the user, [0113], last 3 lines from the bottom).

As to **claim 10**, a station system connected for communication with a wireless LAN access point, which comprises the system for informing that the user is in or not in a wireless LAN service area according to one of claims 1 to 9 (Examiner selects claim 1);

The claim is rejected because it is an obvious variation of claim 1 with the system in claim 1 being a station system, where the station system is interpreted as an a laptop with equipped with IEEE 802.11b card for WLAN running XP Windows system being widely used at time of the invention.

Claims 11-12, 15 and 18 are rejected because they are corresponding method claims of the system claims of 1-2, 5 and 8.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 3-4, 6, 13, 14 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes in view of Connor (US 2003/0156542 A1, hereinafter **Connor**).

For **claim 3**, Barnes discloses a system (Fig. 1) for informing that the user is in or not in a wireless LAN service area strength of the communication signal, (occurrence of ... within a predetermined distance, [0032], line 3-5, or WLAN, [0044]), obtaining congestion degree in service area and outputting the obtained congestion degree (congestion, [0327]) to display means and display the status of the system to the display means.

Barnes is **silent on** the displaying information is network congestion occurring at data link level.

In the same field of endeavor, Connor discloses information of network congestion at data link level (congestion-indication, FIG. 2; notice that FIG. 2 shows the congestion information in a frame, which is at data link level).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Barnes with Connor to display network congestion information at data link level in order to monitor the operation status of the device (monitor the use of the device, [0015], line 7-8).

As to **claim 4**, Barnes discloses the system according to claim 1, but is silent on that the system further comprises a means for collecting data link layer level protocol data; obtaining the network congestion degree in the service area and outputting the obtained network congestion degree to the display means.

In the same field of endeavor, Connor discloses information of network congestion at data link level (congestion-indication, FIG. 2; notice that FIG. 2 shows a frame, which is at data link level).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Barnes with Connor to display network congestion information at data link level in order to monitor the operation status of the device (monitor the use of the device, [0015], line 7-8). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to display network congestion information on a wireless device.

As to **claim 6**, Barnes disclose the system according to claim 4, Barnes further discloses wherein the display means includes:

a light-emitting means (LED, [0037]; or LCD that is commonly used as laptop monitor); and

a means functioning to emit light in different colors (a high resolution color display, [0037] or LED) in the case of displaying that the user is in the service areas (as explained in claim 4);

Barnes and Connor are **silent on** displaying the network congestion information by controlling the flickering cycle according to the network congestion degree.

However, displaying the network congestion information is disclosed by claim 4, and the concept and benefit of displaying different degrees of a variable by controlling the flickering cycle is well known in the art and Examiner takes an Official Notice of this notion.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to use the flickering rate of a display to indicate the degree of the network congestion.

As to **claim 13-14** and **16**, they are rejected because they are the corresponding method claims of system claims 3-4 and 6.

4. **Claims 5** and **15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes in view of Akama (US 2002/0058530 A1, hereinafter **Akama**).

As to **claim 5**, Barnes discloses a system for informing that the user is in or not in a wireless LAN service area according to claim 1, but is silent on wherein the display means includes: a light-emitting means (LED, [0037]; or a high resolution color display such as LCD, [0037], line 5-11);

Barnes is silent on the display means includes a means functioning to control the display of the congestion degree by controlling the flickering period of the light-emitting means based on the congestion degree.

In the same field of endeavor, Akama discloses displaying information using different flickering period depending on change of conditions ([0069], line 4-7), which can be the congestion degree.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to use the flickering rate of a display to indicate the degree of the network congestion for a good notification ([0069], line 5).

As to **claim 15**, it is rejected because it is the corresponding method claim of system claim 5.

5. **Claims 7, 17 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes in view of Jim Geier, "Overview of the IEEE 802.11 Standard", Dec 6, 2001, hereinafter **Geier**.

As to **claim 7**, Barnes disclose the system according to claim 1, but **is silent** on using wireless LAN ESS (extended service set) ID as identification data.

In the same field of endeavor, Geier teaches ESS (Subsection "Extended Service Set (ESS) Networks", page 12; particularly Fig. 3.7). Since Geier teaches more details of wireless LAN standard that is disclosed in Barnes, it is obvious expedient to combine Barnes and Geier together to use ESS ID as identification data.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to display to use ESS ID as identification data due to obvious industrial expedient for the benefit of applying the technology to more sophisticated networks.

Claim 17 is rejected because it is the corresponding method claim of claim 7.

As to **claim 20**, Barnes discloses the method according to claim 11, but is silent on wherein the congestion degree is obtained by measuring reliability of reception of an acknowledged (ACK) frame that is transmitted by an access point, or by measuring frequency of reception of a Clear to Send (CTS) frame that is transmitted by the access point.

Geier discloses ACK (ACK, Page 17) frame type and CTS (CTS, Page 17) frame type.

Barnes teaches the concept of WLAN and Geier further discloses details of the WLAN protocol.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to obtain congestion degree by measuring reliability of reception of an acknowledged (ACK) frame that is transmitted by an access point, or by measuring frequency of reception of a Clear to Send (CTS) frame that is transmitted by the access point in order to provide full WLAN service.

6. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes in view of Conner in claim 4, further in view of Geier.

As to **claim 19**, Barnes discloses the system according to claim 4, but is silent on wherein the congestion degree is obtained by measuring reliability of reception of an acknowledged (ACK) frame that is transmitted by an access point, or by measuring frequency of reception of a Clear to Send (CTS) frame that is transmitted by the access point.

However, Geier discloses ACK (ACK, Page 17) frame type and CTS (CTS, Page 17) frame type.

Barnes teaches the concept of WLAN and Geier further discloses details of the WLAN protocol.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to obtain congestion degree by measuring reliability of reception of an acknowledged (ACK) frame that is transmitted by an access point, or by

measuring frequency of reception of a Clear to Send (CTS) frame that is transmitted by the access point.

Response to Amendments/Remarks

7. Applicant's arguments and all other documents filed on 1/24/2008 with respect to the rejection(s) of claim(s) 1-20 under 35 U.S.C 103(a) have been fully considered, and they are persuasive. Therefore, the final rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.
8. All arguments are moot because of new ground rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianye Wu whose telephone number is (571)270-1665. The examiner can normally be reached on Monday to Thursday, 8am to 7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571)272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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2/7/08



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